

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

)	
BETTY ANNE WATERS, as)	
Administratrix of the Estate of)	
KENNETH WATERS,)	
Plaintiff,)	
v.)	
)	Case No. 04 10521 (GAO) (JGD)
TOWN OF AYER, NANCY TAYLOR-)	
HARRIS, in her individual capacity,)	PLAINTIFF’S MEMORANDUM OF
ARTHUR BOISSEAU, in his individual)	LAW IN SUPPORT OF RULE 15(a)
capacity, BUDDY DECOT, in his)	MOTION TO AMEND
individual capacity, WILLIAM)	
ADAMSON, in his individual capacity,)	
PHILIP L. CONNORS, in his individual)	
capacity, and JOHN DOE and JANE DOES)	
1–16, in their individual capacities,)	
)	
Defendants.)	
)	
)	

Plaintiff respectfully moves for leave to file the proposed First Amended Complaint, attached hereto as Exhibit 1, pursuant to Federal Rule of Civil Procedure 15(a), which provides that “leave [to amend] shall be freely given when justice so requires.” Indeed, “[a]bsent futility, undue delay, undue prejudice and/or bad faith . . . Rule 15(a) generally requires allowance of amendments.” *Savoy v. White*, 139 F.R.D. 265, 267 (D. Mass. 1991).

The proposed First Amended Complaint raises no new causes of action but merely clarifies the original complaint in the following ways:

- 1) by dismissing now-deceased defendant Walter Decot as a party;

- 2) by more clearly articulating the violations and breaches of duty on the part of defendants as well as the damages and injuries suffered by Mr. Waters in each and every year after his wrongful arrest and conviction, and
- 3) by conforming the facts alleged in the complaint to the facts revealed, in particular regarding fingerprints, in discovery.

Undersigned counsel has met and conferred with opposing counsel as per the local rules. In sum, the motion should be granted and leave granted for plaintiff to file Exhibit 1 as the First Amended Complaint in this action.

Dated: February 12, 2008

Respectfully submitted,

/s/ Deborah L. Cornwall
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Counsel for Plaintiff Betty Anne Waters

CERTIFICATE OF SERVICE

I, Emily Gordon, hereby certify that the foregoing document, filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and electronic and paper copies will be sent to those indicated as non-registered participants on February 12, 2008.

/s/ Emily Gordon
Emily Gordon